



SF 92 – Sexual Abuse, Facilitation (LSB1113XS)
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Fiscal Note Version – New

Description

Senate File 92 creates the criminal offense of intent to commit a sex act with a minor under the age of 16 by using electronic devices to solicit and lure that minor, and performing an overt act other than the communication to prove intent. This crime only applies if the person communicating the intent to commit a sex act is four or more years older than the minor.

Background

Under current law a person commits:

- A Class C felony when they entice a minor under the age of 13 with the intent to commit sexual abuse or sexual exploitation. A Class C felony is punishable by confinement for no more than 10 years and a fine of at least \$1,000 but not more than \$10,000.
- A Class D felony when they entice a minor under the age of 16 with the intent to commit sexual abuse or sexual exploitation. A Class D felony is punishable by confinement for no more than five years and a fine of at least \$750 but not more than \$7,500.
- An aggravated misdemeanor when the person entices a minor under the age of 16 with no intent to commit sexual abuse or sexual exploitation. An aggravated misdemeanor is punishable by confinement for no more than two years and a fine of at least \$625 but not more than \$6,250.

A person convicted of a Class C felony with a sexual component is required to register on the Sex Offender Registry for life, and is subject to a lifetime special sentence. This Bill would move all Class C and Class D felony offenses under Iowa Code section **710.10** (if an electronic device for communication was used) to a Class C felony under a new Iowa Code section 709.23.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends; prisoner length of stay; revocation rates; plea bargaining; and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$15 per day.
- This Bill would not result in an increase in convictions, but would move current Class D felonies to Class C felonies.

Impacts

Minority Impact

Of those convicted in FY 2016 of Iowa Code section **710.10** offenses involving sexual intent or purpose, 25.0% were African-American. It is estimated that in the future, 25.0% of those arrested and convicted for this new crime would also be African-American, and be subjected to longer prison sentences under the Class C felony designation. The U.S. Census estimate as of

July 1, 2015, states that the Iowa population was 3.5% African-American. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Minority Impact Memo](#), dated January 30, 2017, for information related to minorities in the criminal justice system.

Correctional Impact

There would be an increase in the prison population by approximately five offenders annually, and at least one of these would be African-American. **Table 1** below shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; length of stay (LOS) under those supervisions; and supervision marginal costs per day for convictions of Class C felonies against persons. Refer to the LSA memo addressed to the General Assembly, [Correctional Impact Memo](#), dated January 30, 2017, for information related to the correctional system.

Table 1 – Marginal Costs and LOS

	Percent to Prison	Avg LOS Prison (months)	FY 16 Marginal Cost/Day Prison	Avg LOS Parole (months)	Percent to Probation	Avg LOS Probation (months)	Fy 16 Avg Cost/Day Parole & Probation	Percent to CBC	FY 16 Marginal Cost/Day CBC	Percent to County Jail	Avg LOS County Jail (days)	Marginal Cost/Day Jail
Class C Felony (Persons)	92.0%	38.2	\$18.51	19.8	29.0%	34.6	\$4.59	4.0%	\$10.28	42.0%	N/A	\$15.00

Fiscal Impact

There would be an increase in costs to the General Fund for FY 2017 ranging between \$84,300 to \$172,500, between \$89,100 to \$197,700 for FY 2018, and between \$97,500 to \$241,800 for FY 2019. Taking into account the disposition of conviction patterns and using the assumptions outlined above, the cost increase estimate is \$156,000 for FY 2017, \$180,000 for FY 2018, and \$230,000 for FY 2019. Again, this is not due to additional convictions, but due to increased LOS over time.

Table 2 – Estimated Costs

Offense	Cost Range	Conviction Shift			Cost Increase Point Estimate		
		FY 2017	FY 2018	FY 2019	FY 2017	FY 2018	FY 2019
Class C Felony	\$7,500-\$18,600	2	6	13	\$35,000	\$103,000	\$230,000
Class D Felony	\$6,300-\$12,300	11	7	0	\$121,000	\$77,000	0
Total		13	13	13	\$156,000	\$180,000	\$230,000

Sources

Department of Human Rights, Division of Criminal and Juvenile Justice Planning
 Department of Corrections
 Office of the State Court Administrator
 Office of the State Public Defender

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.